

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
UNITED STATES COURTHOUSE
40 CENTRE STREET, COURTROOM 706
NEW YORK, NY 10007
(212) 805-6722

RICHARD M. BERMAN
United States District Judge

OCTOBER 1999

Individual Practices of Hon. Richard M. Berman

Unless otherwise ordered, matters before Judge Berman shall be conducted in accordance with the following practices:

1. Communications With Chambers

A. Letters. Except as otherwise provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel (in the same manner as they are delivered to chambers) and must show the method of delivery (e.g., "By Mail," "By Hand"). Copies of correspondence between counsel shall **not** be sent to the Court.

B. Telephone Calls. Except as provided in Paragraph 1(D) below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at (212) 805-6715.

C. Faxes. Faxes to chambers are **not** permitted.

D. Docketing, Scheduling, Default Judgment Procedures, and Calendar Matters. For docketing, scheduling, default judgment procedures and calendar matters, call John Hagen, Courtroom Deputy Clerk at (212) 805-6722 between 9:00 a.m. and 4:30 p.m.

E. Requests for Adjournments or Extensions of Time. All requests for adjournments or extensions of time shall be **in writing** and shall state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling Order (reflecting only business days) must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance

2. Motions

A. Pre-Motion Conferences in Civil Cases. For discovery motions, follow Local Civil Rule 37.2. For motions other than discovery motions, a pre-motion conference with the Court is

required. To arrange a pre-motion conference, the moving party shall submit a letter not to exceed **three** pages in length setting forth the basis for the anticipated motion.

B. Courtesy Copies. Courtesy copies of all Rule 1.9 Statements, pleadings and motion papers, marked as such, shall be submitted to chambers.

C. Memoranda of Law. Unless prior permission has been granted by the Court, memoranda of law in support of and in opposition to motions are limited to **25 pages**, and reply memoranda are limited to **10 pages**. Memoranda of 10 pages or more shall contain a table of contents.

D. Filing of Motion Papers. No motion papers will be reviewed by the Court until the motion has been fully briefed. Each party shall be responsible for filing its motion papers. The moving party is further obligated to furnish to chambers a **full** (final) set of courtesy copies of the motion papers.

E. Oral Argument on Motions. Unless otherwise directed by the Court, oral argument may be held on all motions. After the motion has been fully briefed, and after consultation with all parties, the moving party may request oral argument by letter.

3. Pre-trial Procedures

A. Joint Pre-trial Orders in Civil Cases. Unless otherwise ordered by the Court, within 30 days from the date for the completion of discovery in a civil case, the parties shall submit to the Court for its approval a joint pre-trial order, which shall include the following:

- i. The full caption of the action;
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel;
- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount;
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried;
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed;

vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented);

vii. Stipulations or agreed statements of fact or law;

viii. A statement by each party as to the witnesses whose testimony is to be offered in its case in chief (including the qualifications of any expert witnesses), indicating whether such witnesses will testify in person or by deposition and briefly describing said testimony;

ix. A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground and a brief description of said exhibits; and

x. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections (with citations) by any other party.

B. Filings Prior To Trial in Civil Cases. Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of any final pre-trial order if no trial date has been fixed:

i. In jury cases, joint requests to charge, joint proposed voir dire questions and a joint verdict sheet. (When feasible, proposed jury charges should also be submitted on a 3.5" diskette in WordPerfect version 5.1 or higher format);

ii. In non-jury cases, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;

iii. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and

iv. In any case where such party believes it would be useful, a pre-trial memorandum.

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